
IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF UTAH

UNITED STATES OF AMERICA,

Plaintiff,

v.

JESUS EDUARDO WIRICHAGA-
LANDAVAZO,

Defendant.

MEMORANDUM DECISION AND
ORDER DEYING WITHOUT PREJUDICE
MOTION FOR PRODUCTION OF
DISCOVERY

Case No. 2:14-CR-517 TS

District Judge Ted Stewart

This matter is before the Court on Defendant's Motion for Production of Discovery. In that Motion, Defendant requests a copy of various docket entries as well as all police and witness statements.

28 U.S.C. § 753(f) provides that transcripts must be provided at the expense of the United States in certain circumstances. "Under 28 U.S.C. § 753(f), an indigent defendant is entitled to have the government pay the fees for a copy of his transcript . . . only if he demonstrates that his suit is not frivolous and that the transcript is needed to decide the issue presented by the suit."¹ The Tenth Circuit has applied this standard to documents other than transcripts.² Defendant has failed to make the required showing. Therefore, the Court must deny Defendant's request. The

¹ *Sistrunk v. United States*, 992 F.2d 258, 259 (10th Cir. 1993); *see also* 28 U.S.C. § 753(f) ("Fees for transcripts furnished in proceedings brought under section 2255 of this title to persons permitted to sue or appeal in forma pauperis shall be paid by the United States out of money appropriated for that purpose if the trial judge or a circuit judge certifies that the suit or appeal is not frivolous and that the transcript is needed to decide the issue presented by the suit or appeal").

² *See Nortonsen v. Larimer Cty. Dist. Court*, 178 F. App'x 783, 783 (10th Cir. 2006); *United States v. Lewis*, 37 F.3d 1510 (10th Cir. 1994) (unpublished table decision).

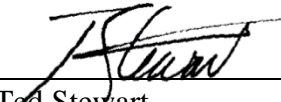
Court will do so without prejudice to allow Defendant the opportunity to make the proper showing.

It is therefore

ORDERED that Defendant's Motion for Discovery (Docket No. 198) is DENIED
WITHOUT PREJUDICE.

DATED this 2nd day of November, 2020.

BY THE COURT:



Ted Stewart
United States District Judge